



June 24, 2003

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 - 12th Street, S.W.  
Room TW-A325  
Washington, D.C. 20554

Re: *Limited Conditional Petition for Waiver of Number Pooling  
Obligations in McAllen-Edinburg-Mission, Texas, CC Docket No.  
99-200, CC Docket No. 95-116*

Dear Ms. Dortch:

Western Wireless Corporation (“Western Wireless”) hereby provides the following information to further supplement its petition for limited waiver of the Commission’s number portability and number pooling rules.<sup>1</sup> This information is provided to specify the scope of relief Western Wireless still needs in light of the release of the *Fourth NRO Order*.<sup>2</sup>

In the Petition and in the Supplement,<sup>3</sup> Western Wireless has pointed out: (1) that it reasonably believed *all* of its operations were outside the largest 100 MSAs until the *Third NRO Order*<sup>4</sup> redefined the largest 100 MSAs to include McAllen-Edinburg-Mission, Texas, and (2) that the vast majority of its operations are outside the largest 100 MSAs,

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<sup>1</sup> Western Wireless’ Limited Conditional Petition for Waiver of Number Pooling Obligations in McAllen-Edinburg-Mission, Texas, CC Docket No. 99-200, CC Docket No. 95-116 (filed Nov. 27, 2002) (the “Petition”).

<sup>2</sup> *Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability*, Fourth Report and Order in CC Docket No. 99-200 and CC Docket No. 95-116, and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 99-200, FCC 03-126 (rel. June 18, 2003) (“*Fourth NRO Order*”).

<sup>3</sup> Supplement to Petition for Waiver and Petition for Clarification of Western Wireless Corporation, CC Docket No. 99-200, CC Docket No. 96-98; CC Docket No. 95-116 (filed Mar. 3, 2003) (the “Supplement”).

<sup>4</sup> *Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability*, Third Report & Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, 17 FCC Rcd. 252 (2001).

except for a very small number of rate centers where it holds a small quantity of numbers. Western Wireless accordingly has sought to be treated, throughout all of its service areas, like a carrier that operates exclusively outside the largest 100 MSAs. This means that Western Wireless would not be required to implement local number portability (“LNP”) or participate in thousands-block number pooling anywhere in its service territory until no sooner than 6 months after the receipt of a bona-fide request from another carrier following November 24, 2003 (i.e., no earlier than May 24, 2004). Western Wireless reiterates its need for this relief in light of the modification to the rules in the recently released *Fourth NRO Order*.

## **I. AREAS INCLUDED IN LARGEST 100 MSAS**

The *Fourth NRO Order* concluded that the largest 100 MSAs under the Commission’s numbering rules would be determined based on a cumulative list of Census Bureau-defined MSAs including the “those MSAs identified in the 1990 U.S. Census reports and all subsequent U.S Census updates of the 100 largest MSAs.”<sup>5</sup> The *Fourth NRO Order* did not, however, expand the areas included in the largest 100 MSAs to include the Combined MSAs (“CMSAs”).<sup>6</sup>

In light of this most recent guidance regarding the definition of the largest 100 MSAs, Western Wireless has determined that it holds numbers within the “largest 100 MSAs” – and thus still needs relief – in the following rate centers:

<b>MSA LICENSE AREA</b>				
<b>Top 100 MSA</b>		<b>Rate Center</b>	<b>Pooling Donation Date</b>	<b>BFR Rec’d for MSA?</b>
McAllen-Edinburg-Mission, TX		McAllen	6/10/03	Yes
“		Edinburg	6/10/03	Yes
“		Weslaco	6/10/03	Yes
<b>RSA LICENSE AREAS</b>				
<b>Top 100 MSA</b>	<b>RSA</b>	<b>Rate Center</b>	<b>Pooling Donation Date</b>	<b>BFR Rec’d for MSA?</b>
Dallas, TX	TX-7	Greenville	5/12/03	Yes
“	TX-7	Commerce*	5/12/03	Yes
Kansas City, MO-KS	KS-10	Paola	12/19/02	Yes

<sup>5</sup> *Fourth NRO Order* at ¶ 20.

<sup>6</sup> *Id.*

RSA LICENSE AREAS				
Top 100 MSA	RSA	Rate Center	Pooling Donation Date	BFR Rec'd for MSA?
Wichita, KS	KS-14	Hesston	10/10/03	Yes
"	KS-14	Newton*	10/10/03	Yes
Las Vegas, NV-AZ	NV-4	Round Mountain	11/04/02	Yes
"	NV-4	Pahrump*	11/04/02	Yes
"	NV-4	Tonopah*	11/04/02	Yes
Omaha, NE-IA	NE-5	Fremont	7/01/01	Yes
"	NE-5	Kennard*	7/01/01	Yes
"	NE-10	Plattsmouth*	7/01/01	Yes
None <sup>7</sup>	OK-7	Anadarko	3/14/02	Yes

\* Indicates rate centers with Type-1 numbers.

In making this determination, Western Wireless has relied upon the mapping of rate centers to MSAs provided by the Commission's designated National Pooling Administrator.<sup>8</sup>

## II. WAIVER OF POOLING AND PORTING OBLIGATIONS

In the *Fourth NRO Order*, the Commission also determined that carriers operating within the largest 100 MSAs would be required to provide LNP only if they have received a bona fide request ("BFR") from another carrier, but that carriers inside the largest 100 MSAs would be obligated to participate in thousands-block number pooling irrespective of whether they have received a BFR. (Prior to the *Third NRO Order*, the Commission's rules had required carriers to provide LNP only after receiving a BFR, and to participate in pooling only after they were required to be LNP capable). For areas inside the largest 100

<sup>7</sup> This rate center is not included in the top 100 MSAs, but was part of the pooling rollout schedule pursuant to authority delegated to the Oklahoma Commission.

<sup>8</sup> This list is available under "Reports" at [www.nationalpooling.com](http://www.nationalpooling.com). Western attempted to map its wireless license areas to the MSAs listed in Appendix A to the *Fourth NRO Order*, but found that the MSA names in Appendix A differ from the MSA names used in Census publications. See, e.g., [www.census.gov/population/estimates/metro-city/03msa.txt](http://www.census.gov/population/estimates/metro-city/03msa.txt). For the benefit of cellular carriers attempting to determine the scope of their obligations under the Commission's pooling and porting rules, Western Wireless urges the Commission either to: (1) publish a list of counties included in the MSAs included in the "largest 100" list, or (2) cross-reference a specific Census Bureau publication that will be used to define the largest 100 MSAs, which identifies the MSAs by county.

MSAs, the rules allowed BFRs to be submitted nine months prior to the implementation date. For areas outside the largest 100 MSAs, the rules allowed BFRs to be submitted no sooner than the implementation date, and allowed a six-month implementation timeframe. Thus, under the rules prior to the *Third NRO Order*, Western Wireless would not have been required to provide LNP or participate in pooling anywhere before May 24, 2004.

Western Wireless maintains its request for a waiver to allow it to be treated like a carrier operating outside the largest 100 MSAs prior to the recent rule changes adopted in the *Third NRO Order* and the *Fourth NRO Order*. Thus, it asks to be excused from providing LNP or participating in pooling until May 24, 2004.<sup>9</sup> On that date, it will begin participating in LNP and pooling in the areas identified above. Western Wireless also will provide LNP in areas outside the largest 100 MSAs within 6 months of receiving a BFR, or on May 24, 2004, whichever is later.

Western Wireless also clarifies that it does not qualify for any of the exemptions from LNP or pooling that were established in the *Fourth NRO Order*.<sup>10</sup> Western Wireless is neither a rural telephone company nor a Tier III CMRS provider. (Western Wireless is a Tier II CMRS provider.) Western Wireless also is not the only carrier drawing numbers in any rate center in which it operates.

Good cause for this waiver has been shown in the Petition and the Supplement, which are incorporated herein by reference.<sup>11</sup> In brief, the extraordinarily small numbering optimization benefits that might be gained by requiring Western Wireless to implement LNP and pooling capability before May 24, 2004 for the very small amount of numbering resources it holds inside the largest 100 MSAs is far outweighed by the enormous cost such implementation would impose on Western Wireless. The numbers identified herein as currently defined within the largest 100 MSAs represent fewer than 120 thousands-blocks, and less than 2.5% of the total numbers that Western Wireless currently holds. Although May 24, 2004 is less than one year away, the ability to spread this enormous capital expenditure over an extra six months, and into the next fiscal year, will be extremely beneficial by permitting Western Wireless to focus on its other substantial regulatory obligations.

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<sup>9</sup> As noted above, Western Wireless received timely BFRs for all of its service areas that are now defined within the largest 100 MSAs.

<sup>10</sup> See *Fourth NRO Order* at ¶ 55.

<sup>11</sup> See 47 C.F.R. § 1.3.

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### **III. CONCLUSION**

For the foregoing reasons, Western Wireless requests a waiver of the requirement that it provide LNP or number pooling before May 24, 2004.

Sincerely,

/s/

Gene DeJordy  
Vice President, Regulatory Affairs